

APPEAL NO. 022859  
FILED DECEMBER 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 16, 2002. The hearing officer determined that the compensable (cervical spine) injury extends to and includes "post-traumatic syndrome" (should actually be post-traumatic stress disorder (PTSD)) and lumbar disc herniation, and that the respondent (claimant) has had disability from February 26, 2002, through the date of the CCH (October 16, 2002).

The appellant (carrier) appeals, asserting that the "evidence is not conclusive that the claimant had a herniated disc as a result of the compensable injury or suffered [PTSD] as a result of the compensable injury." The carrier cites evidence to support its position and Appeals Panel decisions where we have affirmed decisions which reached a different result on different fact situations. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_, in a head-on motor vehicle accident. The carrier has accepted a cervical strain injury. Early medical records reflect lumbar back complaints. A lumbar MRI confirms a 5mm herniation at L5-S1 that "compresses the right S1 nerve root sleeve." The carrier argues that the lumbar herniation is degenerative in nature. The carrier's required medical examination doctor states that the herniation "can be traumatic in origin" and the PTSD complaints should be addressed in an independent psychiatric evaluation. A psychiatrist, in a very brief note, gives an impression of PTSD with a plan of medication and counseling. The hearing officer comments that the claimant's "back injury, in and of itself, has kept . . . the claimant from performing his preinjury job duties." The hearing officer's determinations are supported by the evidence and nothing in a surveillance video would mandate a reversal.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence has established. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **BITUMINOUS CASUALTY CORPORATION** and the name and address of its registered agent for service of process is

**GLENN CAMERON  
222 WEST LAS COLINAS BOULEVARD, SUITE 1720  
IRVING, TEXAS 75016-7968.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge